THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.13665 of 2006

Dated:27.07.2006

Between:

Mukka Ramalingeswara Reddy.

…Petitioner

and

The State of A.P., rep. by its Principal Secretary, Revenue (Registration) Department, and others.

…Respondents

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ORDER:

The petitioner herein purchased the Milk Producing Units of Kadapa District Cooperative Milk Producers Union (KDCMPU) along with the land admeasuring Acs.4.70 cents, R.C.C structure, Plant and Machinery and other properties in Survey No.1004/A3 situated at Ranga Samudram Village, Porumamilla Mandal, Kadapa District. A public auction was conducted, in which the petitioner became the successful bidder by quoting Rs.47,45,000/-. The bid was confirmed in favour of him by the fourth respondent as per the relevant Rules, and the petitioner entered into an agreement dated 07.04.2004 with the General Manager/Liquidator of KDCMPU and took possession of the land and machinery. He also obtained a sale deed dated 16.09.2005 and presented it before the third respondent. The petitioner valued the property at Rs.47,45,000/-, which was the auction amount, duly paying stamp duty at 9% i.e., Rs.4,26,550/- and a sum of Rs.23,725/- towards registration fees. An objection was raised by the third respondent

regarding valuation, and the petitioner was asked to pay the stamp duty and registration charges on the market value of Rs.1,18,09,860/-. When the objection was raised, the third respondent referred the matter under Section 47-A of the Indian Stamp Act, 1899 (for short 'the Act') to the second respondent. The second respondent served a notice to the petitioner on 28.01.2006, in response to which, the petitioner submitted a statement denying the valuation made by the third respondent and also appeared before the second respondent on 09.03.2006. Thereafter, the second respondent valued the sale which was demised under the sale deed at Rs.96,59,000/- and fixed stamp duty of Rs.8,69,310/- as stamp duty and another sum of Rs.48,295/-. Aggrieved by this, the present writ petition is filed.

The matter was initially heard at the preliminary stage on 06.07.2006. It was brought to the notice of this Court by the learned Counsel for the petitioner that when the sale is conducted by Co-operative Society (KDCMPU), the same should be considered as a sale by the Government or a quasi Governmental authority or public authority. Therefore, in accordance with Section 9 of the Act, respondent Nos.2 and 3 are required to reduce the stamp duty and registration charges on the property purchased by the petitioner in the public auction. The learned Counsel did not produce any notifications issued by the Government as required under subsection (1) of Section 9 of the Act, and therefore, the matter was adjourned. Subsequently, on 18.07.2006, the learned Assistant Government Pleader for Revenue (General) has produced the three notifications directed to be published vide the orders of the Government in G.O.Ms.No.2046, dated 28.11.2005, in support of the contention that the Government issued notification under Section 9(1) of the Act only in relation to the sales of land, plant and machinery for industrial houses in a public auction conducted by the High Court or the Official Liquidator appointed by the High Court or Recovery Officer appointed by the Debt Recovery Tribunal or in relation to the industrial units disposed of by the Implementation Secretariat of the Public Enterprises Department, Government of Andhra Pradesh. Learned Counsel for the petitioner has not produced any such notifications in support of the contention made. Therefore, in the absence of any material, this question cannot be decided.

Learned Assistant Government Pleader has rightly brought to the notice of this Court that against the determination of the market value made by the second respondent under subsection (2) of Section 47-A

of the Act, an appeal would lie to the Principal Senior Civil Judge, Badvel. Under subsection (4) read with subsection (5) of Section 47-A of the Act, the petitioner can as well raise all these grounds before such appellate authority.

The second respondent has issued proceedings under Section 47-A(2) of the Act on 04.04.2006. Therefore, liberty is given to the petitioner to file an appeal before the Court of the Principal Senior Civil Judge, Badvel, within a period of one week from the date of receipt of a copy of this order. As and when such appeal is filed, the appellate authority shall consider the same and pass orders on merits without in any manner influenced by any observations made hereinabove.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

27.07.2006

Note: Issue C.C by 29.07.2006.

B/o.

vs